

### **REMARKS**

Claims 1-19 are pending in this application. Claims 1, 12, 18 and 19 are in independent form. Independent claims 1 and 12 are being amended to require that the drain body comprises a ledge and that the frame securable end slidably engages the ledge when the frame is rotated relative to the drain body. Basis for this amendment can be found in paragraph 20 of the specification and in Figures 2 and 3 which show ledge 48 upon which the securable end of the rotatable frame 52 slidably engages. No new matter has been added.

Originally filed claims 5 and 10 were deemed allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. Accordingly, new independent claim 18 includes the limitations of originally filed claim 5 and base claim 1. New independent claim 19 includes the limitation of originally filed claim 10, base claim 1 and intervening claim 7. Basis for these new claims can be found in the originally filed claims. No new matter is being added.

### **Arguments**

The present invention is directed to a floor drain and a method of installing a floor drain wherein the drain is adjustable to orient the position of the drain relative to its surroundings.

Claims 1, 2 and 6-9 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by United States Patent Number 3,110,323 to Helguera. It is the Examiner's position that Helguera meets each and every limitation of these claims.

Applicant traverses this rejection for the following reasons. The Examiner states that Helguera teaches a frame (22) secured within the drain body which is capable of rotating, a clamp (21), and a grate (14). Element (21) in the Helguera patent is not a clamp, but rather is a rotatable lug which is carried by the center of the rotatable plate (22). This lug (21) allows the plate (22) to rotate between an open and closed position with respect to closure plate (14) to permit drainage of material in the basin. The lug of Helguera fails to teach the claimed limitation of a clamp for fixing the securable end of the frame to the drain body. Furthermore, Helguera fails to teach the claimed limitation of a frame being rotatable relative to the drain body for adjusting the position of the frame exposed end. The frame (22) of Helguera does not include an exposed end, but is seated firmly within the drain body (10) and the rotating of this frame is between an open and closed position.

Claims 1 has been further amended to include the limitation wherein the drain body comprises a ledge and the frame securable end slidably engages the ledge when the frame is rotated relative to the drain body. As discussed above, the frame (22) of Helguera is seated firmly within the drain body (10). Accordingly, this frame (22) cannot slidably engage a drain body ledge as specifically recited in amended claim 1.

For the reasons set forth above, it is respectfully requested that the rejection of claims 1, 2, and 6-9 under 35 U.S.C. 102(b) be withdrawn as Helguera fails to teach each and every limitation recited in the claims.

Claims 3-4 and 11-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Helguera. With respect to claims 3-4, the Examiner asserts that although the drain end of Helguera is not non-circular or rectangular, the selection of a drain end

suitable for the use intended is an obvious matter of design choice. The Applicant disagrees with the Examiner's position as the frame taught by Helguera does not have an exposed end, let alone a securable end capable of slidably contacting a ledge of a drain body when the frame is rotated relative to the drain body.

With respect to claims 11-17, the Examiner asserts that although Helguera does not dispose his drain in the floor, it would have been obvious that the drain of Helguera is fully capable of being positioned in a floor. The Applicant disagrees with the Examiner's position. The present invention is directed to a drain and a method of installing a drain in a floor wherein the drain is adjustable to orient the position of the drain relative to its surroundings. When installing a floor drain, one must consider architectural features such as walls, corners, floor tiles and the like which have fixed geometric configurations. There is often a need to orient the grate of a floor drain so that the relationship between surrounding architectural features and edges of the frame is aesthetically acceptable. Additionally, care must be taken to align the grate with the walls of a building according to plumbing line orientations. None of these factors are taken into consideration when installing a drain within a sink such as taught by Helguera. Furthermore, Helguera fails to teach the method limitation of claim 11 which recites rotating the frame relative to the drain body to orient the frame to a desired position relative to surrounding of the floor drain as the frame (22) is fully seated within the drain body (10) and is only rotatable with respect to closure plate (14) between an open and closed position. Helguera also fails to include the added limitation of claim 11 which requires that the drain body comprises a ledge wherein the frame slidably engages the ledge when the frame is rotated relative to the drain body.

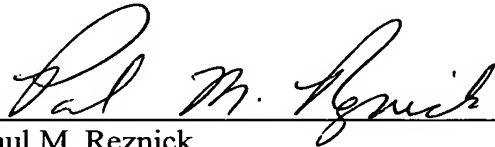
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For the reasons set forth above, it is respectfully requested that the rejection of claims 3-4 and 11-17 under 35 U.S.C. § 103(a) be withdrawn as Helguera fails to render the claims obvious.

Dependent claims 5 and 10 were deemed allowable in the Office Action dated October 23, 2006 if rewritten in independent form including the base claim and any intervening claims. Accordingly, new independent claims 18-19, which include the subject matter recited in original claims 5 and 10, are being submitted in this amendment.

Respectfully submitted,

THE WEBB LAW FIRM

By 

Paul M. Reznick  
Registration No. 33,059  
Attorney for Applicant  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219-1845  
Telephone: 412-471-8815  
Facsimile: 412-471-4094